

REMARKS

The Office Action dated May 3, 2005, has been received and reviewed.

Claims 1, 3-11, and 13-29 are currently pending and under consideration in the above-referenced application, each standing rejected.

New claims 111 and 112 have been added.

Reconsideration of the above-referenced application is respectfully requested.

Claim Amendments

Each of claims 1, 3-11, and 13-29 has been amended. Several of the amendments to independent claim 1 remove limitations therefrom, thereby broadening the scope of the claim. In addition, each of the claims has been revised to replace "said" with the equivalent term "the," which should not be interpreted as narrowing any of the claims.

Rejections Under 35 U.S.C. § 102

Claims 1, 3-11, 13-20, and 22-29 stand rejected under 35 U.S.C. § 102.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single reference which qualifies as prior art under 35 U.S.C. § 102. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Knoll

Claims 1, 5, 7, 8, 10, 14, and 25-29 stand rejected under 35 U.S.C. § 102(b) for reciting subject matter which is purportedly anticipated by that described in U.S. Patent 5,393,401 to Knoll (hereinafter "Knoll").

Independent claim 1, as amended and presented herein, recites a sample separation apparatus. The sample separation apparatus of claim 1 includes a substantially solid substrate, as well as matrices that include porous regions formed in the substrate. The matrices comprise the same material as the substrate.

Knoll lacks any express or inherent description of a sample separation apparatus with matrices that include porous regions and that comprise the same material as that of a substrate within which the matrices are formed. Rather, the description of Knoll is limited to a substrate that includes a trench that has been filled with a porous material such as a hydrogel, PVC solution, or the like. Therefore, Knoll does not anticipate each and every element of amended independent claim 1, as would be required to maintain the 35 U.S.C. § 102(b) rejection against independent claim 1, as amended.

Claims 5, 7, 8, 10, 14, and 25-29 are each allowable, among other reasons, for depending directly or indirectly from claim 1, which is allowable.

Heller in Light of Vickers

Claims 1, 3, 5-11, 14, 18, and 22-24 stand rejected under 35 U.S.C. § 102(b) for being drawn to subject matter that is assertedly anticipated by the subject matter described in U.S. Patent 5,605,662 to Heller et al. (hereinafter “Heller”) in light of the subject matter described in U.S. Patent 5,693,946 to Vickers et al. (hereinafter “Vickers”).

Like Knoll, Heller does not expressly or inherently describe each and every element to which amended independent claim 1 is drawn. Specifically, Heller does not expressly or inherently describe a sample separation apparatus with matrices that comprise the same material as that of a substrate in which the matrices are formed. Instead, the description of Heller is limited to an apparatus that includes permeation and attachment layers that may be formed from aminopropyltriethoxy silane (APS) (col. 13, line 60, to col. 14, line 21) or “functionalized hydrophilic gels, membranes, or other suitable porous materials” (col. 15, lines 3-6). Therefore, As Heller does not anticipate each and every element of amended independent claim 1, under 35 U.S.C. § 102(b), the subject matter recited in amended independent claim 1 is allowable over the subject matter described in Heller.

Each of claims 3, 5-11, 14, 18, and 22-24 is allowable, among other reasons, for depending directly or indirectly from claim 1, which is allowable.

Roberts

Claims 1, 3-11, 15, and 25-28 stand rejected under 35 U.S.C. § 102(e) for being directed to subject matter that is allegedly anticipated by the disclosure of U.S. Patent 5,958,791 to Roberts et al. (hereinafter “Roberts”).

While Roberts lists a large number of materials that may be used as a porous “absorbent material” through which a test sample must pass to be analyzed (*see* col. 12, lines 3-15), Roberts neither expressly nor inherently describes that the porous “absorbent material” comprises the same material as that of a substrate within which the porous region is formed. Therefore, Roberts does not anticipate each and every element of amended independent claim 1, as would be required to maintain the 35 U.S.C. § 102(e) rejection of independent claim 1.

Claims 3-11, 15, and 25-28 are each allowable, among other reasons, for depending directly or indirectly from claim 1, which is allowable.

Burns

Claims 1, 2, 4, 5, 7-9, 13, 16-20, and 22-27 stand rejected under 35 U.S.C. § 102(e) for reciting subject matter which is assertedly anticipated by that described in U.S. Patent 6,379,929 to Burns et al. (hereinafter “Burns”).

The disclosure of Burns, with respect to matrices that include porous regions, appears to be limited to polyacrylamide gel. Col. 57, lines 19-44. The polyacrylamide gel is carried within channels 100 formed in a silicon substrate 200. *See, e.g.*, FIG. 2A; col. 21, lines 49-59. Thus, Burns does not expressly or inherently describe, or anticipate, a sample separation apparatus that includes a substrate and matrices that are formed in the substrate and comprise the same material as the substrate, as would be required to anticipate each and every element of amended independent claim 1 under 35 U.S.C. § 102(e). Therefore, under 35 U.S.C. § 102(e), the subject matter recited in amended independent claim 1 is allowable over the subject matter described in Burns.

Claim 2 was previously canceled without prejudice or disclaimer; thus, the rejection thereof is moot.

Each of claims 4, 5, 7-9, 13, 16-20, and 22-27 is allowable, among other reasons, for depending directly or indirectly from claim 1, which is allowable.

Withdrawal of the 35 U.S.C. § 102 rejections of claims 1, 3-11, 13-20, and 22-29 is respectfully solicited.

Rejections Under 35 U.S.C. § 103(a)

Claim 21 stands rejected under 35 U.S.C. § 103(a) for reciting subject matter which is assertedly unpatentable over that taught in Burns, in view of teachings from U.S. Patent 5,948,227 to Dubrow (hereinafter “Dubrow”).

Claim 21 is allowable, among other reasons, for depending indirectly from claim 1, which is allowable.

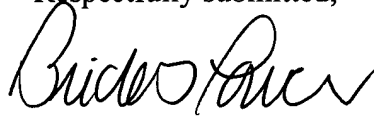
New Claims

New claims 111 and 112 have been added. New claims 111 and 112 depend directly and indirectly, respectively, from independent claim 1. It is respectfully submitted that neither new claim 111 or 112 introduces new matter into the above-referenced application.

CONCLUSION

It is respectfully submitted that each of claims 1, 3-11, and 13-29 is allowable. An early notice of the allowability of each of these claims is respectfully solicited, as is an indication that the above-referenced application has been passed for issuance. If any issues preventing allowance of the above-referenced application remain which might be resolved by way of a telephone conference, the Office is kindly invited to contact the undersigned attorney.

Respectfully submitted,



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Date: August 1, 2005
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